

REGULAR MEETING

January 11, 1993

The Regular Meeting of the Annapolis City Council was held on Monday, January 11, 1993 in the Council Chamber. Mayor Hopkins called the meeting to order at 7:30 p.m. Alderman Snowden offered the invocation followed by the Pledge of Allegiance.

Present on Roll Call: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Gray, Snowden, Turner, DeGraff, Moyer

Staff present: City Attorney Hodgson, Planning and Zoning Director Fogarty, Public Works Director Patmore, Finance Director Tyler, Central Services Officer Harrison

Mayor Hopkins presented a Certificate of Distinguished Citizenship to Joseph Baker, Bureau Chief of Engineering and Construction.

Mayor Hopkins presented a Proclamation to Morris Blum proclaiming "Morris Blum Day" in the City of Annapolis.

Alderman Snowden moved to approve the Minutes of 12/14/92. Seconded. CARRIED on voice vote.

PETITIONS, REPORTS AND COMMUNICATIONS

1. Sandra K. Shaw
31 East Street
Annapolis, Md. 21401
Spoke in support of Middleton's Tavern's conditional use application.
2. Ted Garrish
212 King George Street
Annapolis, Md. 21401
Spoke in support of Middleton's Tavern's conditional use application.
3. Nick Kallis
No address given.
Spoke in support of Middleton's Tavern's conditional use application.
4. Tom Negri, General Manager,
Loews Annapolis Hotel
West Street
Annapolis, Md. 21401
Spoke in support of Middleton's Tavern's conditional use application.
5. Leonard Berman, Chair
Alcoholic Beverage Control Board
211 Sumner Road
Annapolis, Md. 21401
Spoke in support of Resolution R-2-93.

ACTION ON APPLICATIONS AND APPEALS

Application of Jerry Hardesty, business owner, and Cleo Apostol, property owner, for a conditional use to expand the second floor kitchen of an existing restaurant known as Middleton's Tavern at #2 Market Space, Annapolis. **(R-3-93)**

Due to a possible conflict of interest, Alderman Johnson did not participate in the consideration of Resolution R-3-93.

Alderman DeGraff moved to adopt R-3-93 (2). Seconded.

Following discussion, Alderman Hammond moved to substitute R-3-92 for R-3-93 (2). A ROLL CALL vote was taken:

Yeas: Aldermen Hammond, Gilmer, Gray, Turner
Nays: Mayor Hopkins, Aldermen Snowden, DeGraff, Moyer
DEFEATED: 4-4

Following discussion, a ROLL CALL vote was taken on the main motion.

Yeas: Mayor Hopkins, Aldermen Gray, Snowden, DeGraff, Moyer
Nays: Aldermen Hammond, Gilmer, Turner
DEFEATED: 5-3*

(* Pursuant to City Code Section 21.72.060(B) written protests were filed against the proposed conditional use, signed and acknowledged by the owners of twenty percent or more of the areas of land within two hundred feet of the subject property. Therefore, the conditional use cannot be granted except by a favorable vote of three-fourths of all members of the council.)

Alderman Hammond moved to adopt R-3-93. Seconded. A ROLL CALL vote was taken:

Yeas: Aldermen Hammond, Gilmer, Gray, Turner
Nays: Mayor Hopkins, Aldermen Snowden, DeGraff, Moyer
DEFEATED: 4-4

LEGISLATIVE ACTION

1. **O-30-92** Sponsored by Aldermen DeGraff, Turner, Snowden

For the purpose of allowing produce stands and Christmas tree sales as permitted uses in certain zones; and all matters relating to said produce stands and Christmas tree sales.

Alderman DeGraff moved to adopt O-30-92 on second reading. Seconded.

Alderman Hammond moved to amend O-30-92 as follows:

Amendment No. 1

On Page 1, lines 33 and 35, strike "Stands" and substitute "SALES"; on Page 2, line 33, strike "STANDS" and substitute "SALES"; on Page 3, line 23, strike "STANDS" and substitute "SALES"; on Page 4, lines 9 and 44, strike "STANDS" and substitute "SALES".

Amendment No. 2

On Page 1, lines 33 and 35, immediately following "Christmas Tree" add "AND GREENS"; on Page 2, line 33, immediately following "CHRISTMAS TREE" add "AND GREENS"; on Page 3, line 23, immediately following "CHRISTMAS TREE" add "AND GREENS"; on Page 4, lines 9 and 44, immediately following "CHRISTMAS TREE" add "AND GREENS".

Seconded. CARRIED on voice vote.

Alderman Hammond moved to amend O-30-92 as follows:

Amendment No. 3

On Page 3, line 15 add the following:

9. REFUSE CONTAINERS SHALL BE PROVIDED AND THE CLEANLINESS OF THE

SITE AND ADJACENT AREAS, AS DEFINED BY THE DEPARTMENT OF PLANNING AND ZONING, SHALL BE MAINTAINED.

10. MUSIC MAY BE PERMITTED IN CONFORMANCE WITH SECTION 11.12.020.

11. INSTALLATION OF TEMPORARY LIGHTING AND OTHER FIXTURES SHALL BE SUBJECT TO APPLICABLE LAW AND REGULATIONS GOVERNING THE INSTALLATION AND MAINTENANCE OF PERMANENT LIGHTING AND OTHER FIXTURES. NO FLASHING OR MOVING LIGHTS SHALL BE PERMITTED.

On Page 4, line 4, add the following:

9 .REFUSE CONTAINERS SHALL BE PROVIDED AND THE CLEANLINESS OF THE SITE AND ADJACENT AREAS, AS DEFINED BY THE DEPARTMENT OF PLANNING AND ZONING, SHALL BE MAINTAINED.

10 .MUSIC MAY BE PERMITTED IN CONFORMANCE WITH SECTION 11.12.020.

11 .INSTALLATION OF TEMPORARY LIGHTING AND OTHER FIXTURES SHALL BE SUBJECT TO APPLICABLE LAW AND REGULATIONS GOVERNING THE INSTALLATION AND MAINTENANCE OF PERMANENT LIGHTING AND OTHER FIXTURES. NO FLASHING OR MOVING LIGHTS SHALL BE PERMITTED.

On Page 4, line 38, add the following:

9 .REFUSE CONTAINERS SHALL BE PROVIDED AND THE CLEANLINESS OF THE SITE AND ADJACENT AREAS, AS DEFINED BY THE DEPARTMENT OF PLANNING AND ZONING, SHALL BE MAINTAINED.

10 .MUSIC MAY BE PERMITTED IN CONFORMANCE WITH SECTION 11.12.020.

11. INSTALLATION OF TEMPORARY LIGHTING AND OTHER FIXTURES SHALL BE SUBJECT TO APPLICABLE LAW AND REGULATIONS GOVERNING THE INSTALLATION AND MAINTENANCE OF PERMANENT LIGHTING AND OTHER FIXTURES. NO FLASHING OR MOVING LIGHTS SHALL BE PERMITTED.

On Page 5, line 24, add the following:

9. REFUSE CONTAINERS SHALL BE PROVIDED AND THE CLEANLINESS OF THE SITE AND ADJACENT AREAS, AS DEFINED BY THE DEPARTMENT OF PLANNING AND ZONING, SHALL BE MAINTAINED.

10. MUSIC MAY BE PERMITTED IN CONFORMANCE WITH SECTION 11.12.020.

11. INSTALLATION OF TEMPORARY LIGHTING AND OTHER FIXTURES SHALL BE SUBJECT TO APPLICABLE LAW AND REGULATIONS GOVERNING THE INSTALLATION AND MAINTENANCE OF PERMANENT LIGHTING AND OTHER FIXTURES. NO FLASHING OR MOVING LIGHTS SHALL BE PERMITTED.

Seconded.

Following discussion, Alderman Gilmer moved to substitute the following for Amendment No. 3:

Amendment No. 3: (as amended)

On Page 3, line 15 add the following:

9. REFUSE CONTAINERS SHALL BE PROVIDED AND THE CLEANLINESS OF THE SITE AND ADJACENT AREAS, AS DEFINED BY THE DEPARTMENT OF PLANNING AND ZONING, SHALL BE MAINTAINED.

On Page 4, line 4, add the following:

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On Page 4, line 38, add the following:

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On Page 5, line 24, add the following:

9. REFUSE CONTAINERS SHALL BE PROVIDED AND THE CLEANLINESS OF THE SITE AND ADJACENT AREAS, AS DEFINED BY THE DEPARTMENT OF PLANNING AND ZONING, SHALL BE MAINTAINED.

____ Seconded. CARRIED on voice vote.

The main motion, as amended, CARRIED on voice vote.

Alderman Snowden moved to adopt O-30-92, as amended, on second reading. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-30-92, as amended, on third reading. Seconded. CARRIED on voice vote.

2. **O-39-92** Sponsored by Alderman Turner

For the purpose of conveying, by quit claim deed, all the rights, title and interest the City has in certain paper streets known as Beale Street and Windsor Avenue in the City of Annapolis; and all matters relating to said paper streets.

The Finance Committee reported favorably on O-39-92 with amendments.

Alderman Snowden moved to substitute O-39-92 Revised for O-39-92. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-39-92 Revised on second reading. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-39-92 Revised on third reading. Seconded. CARRIED on voice vote.

3. **O-42-92** Sponsored by Aldermen Gray, Snowden, DeGraff

For the purpose of prohibiting repeated harassment and stalking of a person; providing penalties for violation; and all matters relating to said prohibition.

The Rules and Public Safety Committees reported favorably on O-39-92 with amendments.

Alderman Snowden moved to substitute O-42-92 Revised for O-42-92. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-42-92 Revised on second reading. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-42-92 Revised on third reading. Seconded. CARRIED on voice vote.

4. **O-46-92** Sponsored by Alderman Moyer

For the purpose of authorizing a deed of easement to legitimize an encroachment of property located at 527 Burnside Street into the platted roadbed of Chester Avenue in the City of Annapolis; and all matters relating to said deed of easement.

The Finance Committee reported favorably on O-46-92.

Alderman Snowden moved to adopt O-46-92 on second reading. Seconded. CARRIED on voice vote.

Alderman Moyer moved to adopt O-46-92 on third reading. Seconded. CARRIED on voice vote.

5. **O-47-92** Sponsored by Mayor Hopkins

For the purpose of establishing a Homestead Credit Percentage of one hundred and ten percent in the City of Annapolis; and all matters relating to said Homestead Credit Percentage.

There being no voiced objection, consideration of O-47-92 was postponed.

6. **O-1-93** Sponsored by Alderman Gilmer

For the purpose of authorizing the issuance of peddlers and hawkers permits in certain zoning districts; and all matters related to issuance of said permits.

Alderman DeGraff moved to adopt O-1-93 on first reading. Seconded. CARRIED on voice vote.

Referred to the Planning and Zoning Commission.

7. **O-2-93** Sponsored by Mayor Hopkins

For the purpose of allowing the Planning and Zoning Commission to consider conformance with Chapter 21.98 in the review and action on subdivisions; and all matters relating to said conformance.

Alderman DeGraff moved to adopt O-2-93 on first reading. Seconded. CARRIED on voice vote.

Referred to the Planning and Zoning Commission.

8. **O-3-93** Sponsored by Mayor Hopkins, Aldermen Gilmer, Snowden, Turner, DeGraff and Moyer

For the purpose of establishing that certain structural modifications to

restaurants shall be exempt from the conditional use process upon certain findings by the Director of Planning and Zoning; and all matters relating to said exception.

Alderman DeGraff moved to adopt O-3-93 on first reading. Seconded. CARRIED on voice vote.

Referred to the Planning and Zoning Commission.

9. **O-4-93** Sponsored by Alderman Hammond

For the purpose of establishing that a bed and breakfast home is not permitted in an attached single family home in the City of Annapolis; and all matters relating to said bed and breakfast home.

Alderman Hammond moved to adopt O-4-93 on first reading. Seconded. CARRIED on voice vote.

Referred to the Planning and Zoning Commission.

BUSINESS AND MISCELLANEOUS

1. **R-1-93** Sponsored by Alderman Snowden

For the purpose of declaring January 13, 1993 as Yevola S. Peters' Day; and all matters relating to said declaration.

Alderman Gilmer moved to adopt R-1-93. Seconded. CARRIED on voice vote.

2. **R-2-93** For the purpose of providing direction to the Alcoholic Beverage Control Board of the City of Annapolis on matters relating to the draft Rules and Regulations of the Alcoholic Beverage Control Board submitted by that Board to the City Council for review; clarifying issues related to the current status of those draft rules and regulations; and all matters relating to said rules and regulations.

There being no voiced objection, consideration of R-2-93 was postponed to the February 8, 1993 meeting.

3. **R-4-93** For the purpose of providing written approval by the City of Annapolis to the proposed assignment by Aletta, Inc. and Alvin Kaufman and Etta Kaufman, trading as Kaufman's Fancy Fruits and Vegetables, of its lease with the City of Annapolis for certain space in the Markethouse as required by said lease; and all matters relating to said assignment of lease.

Alderman Moyer moved to adopt R-4-93 and authorize the execution of a letter of understanding to Mr. Emory Harrison from Louis J. Glick, Esquire dated 1/4/93. Seconded. CARRIED on voice vote.

4. **R- 5-93** Sponsored by Alderman Snowden

For the purpose of calling upon the Superintendent of the U.S. Naval Academy to allow the Annapolis High School Commencement Exercises to be held at the U.S. Naval Academy Alumni Hall; and all matters relating to said use of the Alumni Hall.

There being no voiced objection, consideration of R-5-93 was postponed.

5. Rules Committee Minutes of 1/4/93

Alderman Snowden moved to approve the Rules Committee Minutes of 1/4/93. Seconded. CARRIED on voice vote.

6. Finance Committee Minutes of 12/31/92

Alderman Hammond moved to approve the Finance Committee Minutes of 12/31/92. Seconded. CARRIED on voice vote.

7. Payment of monthly bills

Alderman Hammond moved to pay the monthly bills. Seconded. CARRIED on voice vote.

8. Appointments

Alderman DeGraff moved to confirm the Mayor's appointments of the following persons as set forth in Memoranda to the Aldermen from Mayor Alfred A. Hopkins dated 1/5/93 and 1/7/93:

Housing and Community Development Committee

Audrey K. Zimmer

Human Relations Commission

Emily B. Dryden

Seconded. CARRIED on voice vote.

ACTION ON APPLICATIONS AND APPEALS

Application of Jerry Hardesty, business owner, and Cleo Apostol, property owner, for a conditional use to expand the second floor kitchen of an existing restaurant known as Middleton's Tavern at #2 Market Space, Annapolis. **(R-3-93)**

City Attorney Hodgson noted that as required by City Code Section 2.16.180(C)(4), the seven day comment period and the seven day reply period required on conditional use applications had not been met and any action taken by the City Council prior to that time was invalid.

Alderman Turner moved to suspend the rules to dispense with the seven day comment period and seven day reply period. Seconded. DEFEATED on voice vote.

Due to a possible conflict of interest, Alderman Johnson did not participate in this matter.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 10:15 p.m.

Patricia L. Bembe, CMC/AAE

City Clerk